

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for State Board of Pharmacy

CERTIFIED TRUE COPY

FILED

JUN 27 2000

BOARD OF PHARMACY

By: Marianne W. Greenwald
Deputy Attorney General
(973) 648-4738

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE LICENSE OF:	:	
	:	
NICHOLAS PIROVOLOS, R.P.	:	
	:	PROVISIONAL ORDER
TO PRACTICE PHARMACY IN THE	:	OF DISCIPLINE
STATE OF NEW JERSEY	:	
	:	
	:	

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent is a pharmacist in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On May 25, 2000 respondent was convicted of the crime of Conspiracy to Defraud the United States in Federal District Court of New Jersey. Specifically: respondent pleaded guilty to conspiring to defraud customers by buying and selling stolen drug samples. (A copy of the Judgment of Conviction, and the Plea

Agreement , the Minutes of the Proceedings are annexed hereto and made a part hereof).

3. The following sentence was ordered: Probation for a term of 1 year including, 100 hours of community service, and a \$2,000 fine.

CONCLUSIONS OF LAW

1. The above conviction provides grounds for the suspension of his license to practice pharmacy in New Jersey pursuant to N.J.S.A. 45:1-21(f) in that the crime of which respondent was convicted is one of moral turpitude and/or relates adversely to the practice of pharmacy.

ACCORDINGLY, IT IS ON

June 20th, 2000

ORDERED THAT:

1. Respondent's license to practice pharmacy in the State of New Jersey shall be and hereby is revoked, with no right to request reinstatement prior to the termination of criminal probation.

2. Prior to resuming active practice in New Jersey, respondent shall be required to appear before the Board (or a committee thereof) to demonstrate fitness to resume practice. Any practice in this State prior to formal reinstatement of license by the Board shall constitute grounds for a charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

3. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 30th business day following its filing

unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to H. Lee Gladstein, Executive Director, Board of Pharmacy, 124 Halsey Street, Sixth Floor, P.O. Box 45029 Newark, New Jersey 07101.

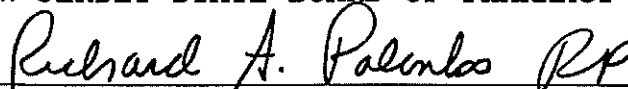
b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting respondent's for consideration and reasons therefor or in mitigation of the penalty proposed.

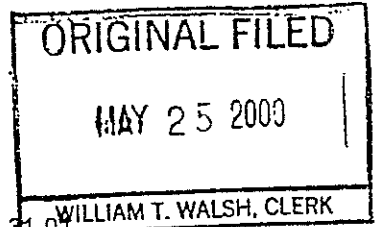
4. Any submissions will be reviewed by the Board, and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through the submission by respondent during the thirty day period, or if the Board is not persuaded that the submitted materials merit further consideration, a Final Order of Discipline will be entered.

5. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein shall serve as notice of the factual and legal allegations in such proceeding.

NEW JERSEY STATE BOARD OF PHARMACY


RICHARD A. PALOMBO, R.P.
Board President

UNITED STATES DISTRICT COURT
District of New Jersey



UNITED STATES OF AMERICA

v.

Case Number 2:00-CR-31,07

NICHOLAS PIROVOLOS -

Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, NICHOLAS PIROVOLOS, was represented by Jack Wenik.

The defendant pled guilty to count(s) 1 of the information on 1-18-00. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number(s)</u>
18:371	Conspiracy to defraud the United States.	10-1-98	1

As pronounced on 5-24-00, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count(s) 1, which shall be due immediately. Said special assessment shall be made payable to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 24th day of May, 2000.

Certified as a true copy on

This Date 5/25/00

By Phil J. Self

Clerk

Deputy

Joseph A. Greenaway, Jr.
United States Judge

Defendant's SSN: 209-24-1987
Defendant's Date of Birth: 1-10-30
Defendant's address: 30 Dwight Drive, Ocean, N.J. 07712

Defendant: Pirovolos, Nicholas
Case Number: Cr. 00-31-01

PROBATION

The defendant is hereby placed on probation for a term of 1 year.

While on probation, the defendant shall comply with the standard conditions that have been adopted by this court (set forth below);

Based on information presented, the defendant is excused from the mandatory drug testing provision, however, may be requested to submit to drug testing during the period of supervision if the probation officer determines a risk of substance abuse.

If ordered to the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.

and shall comply with the following additional conditions:

The defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

The defendant shall perform 100 hours of community service. The community service shall be performed during the year of probation. The court recommends that the community service be done in Monmouth County with high school students or young entrepreneurs.

Defendant: Pirovolos, Nicholas
Case Number: Cr. 00-31-01

STANDARD CONDITIONS OF PROBATION

While the defendant is on probation pursuant to this Judgment:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not illegally possess a controlled substance.
- 3) If convicted of a felony offense, the defendant shall not possess a firearm or destructive device.
- 4) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 5) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 6) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 7) The defendant shall support his or her dependents and meet other family responsibilities.
- 8) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 9) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 10) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 11) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 12) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 13) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 14) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 15) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 16) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant: Pirovolos, Nicholas
Case Number: Cr. 00-31-01

FINE

The defendant shall pay a fine of \$2,000.00.

This fine, plus any interest pursuant to 18 USC § 3612(f)(1), shall be paid in full within 60 days.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed.
See 18 U.S.C. § 3614.

Defendant: Pirovolos, Nicholas
Case Number: Cr. 00-31-01

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	6
Criminal History Category:	1
Imprisonment Range:	0 to 6 months.
Supervised Release Range:	2 to 3 years
Fine Range:	\$500.00 to \$5,000.00
Restitution:	N/A

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK

Minutes of Proceedings

Judge Joseph A. Greenaway, Jr.

MAY 24, 2000
Date of Proceedings

Court Reporter Tom Brazaitis

Deputy Clerk Philip J. Selecky

Title of Case:

Docket # CR. 00-31-01

U.S.A. v. Nicholas Pirovolos

Appearances:

Richard Schechter, AUSA., for the govt.
Jack Wenik, Esq., for the deft.

Nature of Proceeding: SENTENCING

Sentence on count 1 of the Information: Probation for a term of 1 year.

Additional conditions of probation.

- 1) Full financial disclosure.
- 2) 100 hours of community service.

Fine: \$2,000.00.

Special assessment of \$100.00, payable immediately.

Time Commenced: 9:30 a.m.

Time adjourned: 9:45 a.m.

Certified as a true copy on

This Date: 5/25/00

By Philip J. Selecky

() Clerk

(✓) Deputy

Philip J. Selecky
Philip J. Selecky, Deputy Clerk



FILED

U.S. Department of Justice

United States Attorney
District of New Jersey

Richard J. Schechter
Deputy Chief, Fraud and Public Protection Division

970 Broad Street, Suite 700
Newark, NJ 07102

(973)645-2791
Fax: (973)645-2857

RJS:rjs:Pirovolosplea.ltr

CK. 00-31

December 7, 1999

Jack Wenik, Esq.
Sills, Cummis, Radin, Tischman, Epstein & Gross
One Riverfront Plaza
Newark, New Jersey 07102

Qualified as a true copy on
This Date: 5/25/00
By: Philip J. Self
() Clerk
(x) Deputy

Re: Plea agreement with Nicholas Pirovolos

Dear Mr. Wenik:

This letter sets forth the full and complete agreement between your client, Nicholas Pirovolos, and the United States Attorney for the District of New Jersey ("this Office"). This offer will remain open until Friday December 24, 1999, and if an executed agreement is not received in this Office on or before that time, this offer will expire.

CHARGE

Conditioned on the understandings specified below, this Office will accept a guilty plea from Mr. Pirovolos to a one-count felony Information, which charges him with conspiring to: (a) defraud the United States; and (b) receive misbranded drugs contrary to Title 21, United States Code, Section 331(c), in violation of 18 U.S.C. § 371. If Mr. Pirovolos enters a guilty plea and is sentenced on this charge, then this Office will not initiate any further charges against him for the criminal activity he was involved in at Crestview Pharmacy. The scope of the protection offered in the previous sentence is further limited to the criminal activity that the United States is currently aware of - Mr. Pirovolos's receipt of misbranded prescription drugs at Crestview Pharmacy from 1996 to 1998 and his payment of approximately \$5,000 to \$10,000 in cash to a pharmacist who delivered the misbranded prescription drugs.

SENTENCING

The violation of 18 U.S.C. § 371 to which Mr. Pirovolos agrees to plead guilty carries a statutory maximum prison sentence of five (5) years. Pursuant to 18 U.S.C. § 3571, the sentencing judge may impose a fine of up to \$250,000 or twice the amount of any pecuniary gain that any persons derived from the offense or twice the gross amount of any pecuniary loss sustained by any of the victims of the offense. The Sentencing Reform Act and the Sentencing Guidelines also may impose a minimum term of imprisonment and/or fine, and the Sentencing Guidelines may authorize departure from the minimum and maximum penalties under certain circumstances. All fines imposed by the sentencing judge in excess of \$2,500 are subject to the payment of interest.

Further, in addition to imposing any other penalty on Mr. Pirovolos, the sentencing judge: (1) will order Mr. Pirovolos to pay an assessment of \$100, pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) shall order Mr. Pirovolos to pay restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664; (3) may order Mr. Pirovolos, pursuant to 18 U.S.C. § 3555, to give notice to any victim of his offense; and (4) pursuant to 18 U.S.C. § 3583 and § 5D1.2 of the Sentencing Guidelines, may require Mr. Pirovolos to serve a term of supervised release of at least 2 and not more than 3 years, which will begin at the expiration of any term of imprisonment imposed. Should Mr. Pirovolos be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Mr. Pirovolos may be sentenced to not more than 2 years' imprisonment in addition to any prison term previously imposed and in addition to the statutory maximum term of imprisonment set forth above.

The sentence to be imposed upon Mr. Pirovolos is within the sole discretion of the sentencing judge, subject to the provisions of the Sentencing Reform Act, 18 U.S.C. §§ 3551-3742 and 28 U.S.C. §§ 991-998, and the United States Sentencing Guidelines. This Office cannot and does not make any representation or promise as to what guideline range will be found applicable to Mr. Pirovolos, or as to what sentence Mr. Pirovolos ultimately will receive. This Office reserves its right to provide the court and the Probation Office with all factual and legal information to enable the sentencing judge to determine the applicable guideline range and the appropriate sentence. In addition, this Office will inform the sentencing judge and the U.S. Probation Office of: (1) this agreement; (2) the nature and extent of Mr. Pirovolos's activities and relevant conduct with respect to this case; and (3) all other information relevant to sentencing, favorable or otherwise. This Office also reserves its rights to take a position with respect to all matters of sentencing except that the Office will not take any position with respect to whether a term of imprisonment should be imposed on Mr. Pirovolos by the sentencing judge or the length of any term of imprisonment. Specifically, this Office will not oppose a request by Mr. Pirovolos to receive a sentence of Probation.

This Office specifically reserves the right to take any position in post-sentencing motions or proceedings and to appeal, or to oppose any appeal of, Mr. Pirovolos's sentence.

STIPULATIONS

This Office and Mr. Pirovolos agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations entered into by the parties. To the extent that the parties do not stipulate, each reserves the right to argue the effect of any fact upon sentence. Moreover, this agreement to stipulate on the part of this Office is based on the information and evidence that this Office possesses as of the date of this agreement. Thus, if this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in the attached Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or Mr. Pirovolos from any other portion of this plea agreement, including any other stipulation.

OTHER PROVISIONS

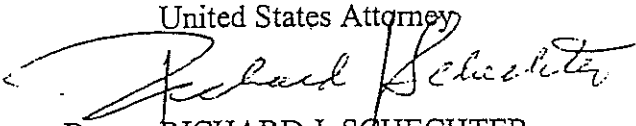
This agreement does not prohibit the United States, any agency thereof (including the IRS), or any third party from initiating or prosecuting any civil proceeding against Mr. Pirovolos.

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested by Mr. Pirovolos to do so.

This agreement constitutes the full and complete agreement between Mr. Pirovolos and this Office and supersedes any previous agreement. No additional promises, agreements, or conditions have been entered into other than those set forth in this letter, and none will be entered into unless in writing and signed by the parties.

Very truly yours,

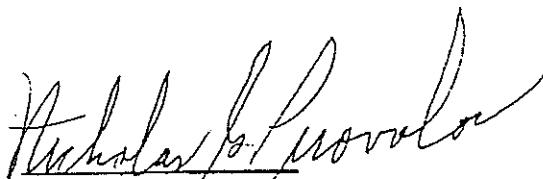
ROBERT J. CLEARY
United States Attorney

By: 
RICHARD J. SCHECHTER
Assistant U.S. Attorney


APPROVED:


MICHAEL A. GUADAGNO
Chief, Fraud and Public Protection Division

I have received this letter from my attorney, Jack Wenik, Esq. I have read it and I understand it fully. I hereby acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the District of New Jersey. I state that there have been no additional promises or representations made to me by any officials or employees of the United States Government or by my attorney in connection with this matter.


Nicholas Pirovolos

Witnessed by:


Jack Wenik, Esq.
Counsel for Mr. Pirovolos

Date: 1/26/00

PLEA AGREEMENT WITH NICHOLAS PIROVOLOS

Schedule A

This Office and Mr. Pirovolos agree to stipulate at sentencing to the statements set forth below, subject to the conditions in the attached plea agreement. (Reference below is to the Sentencing Guidelines in effect following the amendments of November 1997).

1. From in or about 1996 through in or about October 1998, Mr. Pirovolos knowingly agreed with another person to receive misbranded prescription drugs at Crestview Pharmacy. These misbranded drugs were received by Mr. Pirovolos in plastic baggies without proper labeling. Mr. Pirovolos paid another person approximately \$5,000 to \$10,000 in exchange for receiving these drugs. These misbranded drugs were sold by Crestview Pharmacy as prescription drugs to the public in violation of law. In total, Mr. Pirovolos earned a profit of less than \$2,000 from this criminal activity.

2. Section 2N2.1 of the Sentencing Guidelines is applicable to the offense committed by Mr. Pirovolos, and the base offense level is 6. The United States and Mr. Pirovolos have no agreement, and thus, reserve their respective rights, concerning whether the cross reference in Guideline section 2N2.1(b)(1) is applicable.

3. In the event that Guideline section 2F1.1 is applicable as a result of the cross reference in 2N2.1(b)(1), the "loss" under the Guidelines is less than \$2,000 and thus, no levels will be added to the base offense level. U.S.S.G. § 2F1.1(b)(1)(A).

4. The United States and Mr. Pirovolos have no agreement, and thus, reserve their respective rights, with respect to whether:

(a) an enhancement for abuse of position of trust is applicable pursuant to U.S.S.G. § 3B1.3;

(b) an adjustment for more than minimal planning is applicable pursuant to U.S.S.G. § 2F1.1(b)(2); and

(c) an adjustment for minor participant is applicable pursuant to U.S.S.G. § 3B1.2(b).

5. As of the date of this agreement, Mr. Pirovolos has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offense charged. Therefore, a downward adjustment of two levels for acceptance of responsibility is appropriate if Mr. Pirovolos's acceptance of responsibility continues through the date of sentencing. U.S.S.G. § 3E1.1(a).